

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.597 OF 2018

(Manish s/o Nanaji Tarade Vs. State of Maharashtra thr. PSO PS Kalamb, Tah.
Kalamb, Dist. Yavatmal)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri A.C. Jaltare, Advocate for Applicant.
Shri N.H. Joshi, APP for Respondent-State.

CORAM: ROHIT B. DEO, J.

DATE: 29th JUNE, 2018.

The applicant is in custody since 22.02.2018 in connection with Crime 59/2018 registered at Police Station Kalamb, District Yavatmal for offence punishable under section 376(2)(j)(n), 417 and 506 of the Indian Penal Code and section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

The offence is registered on the basis of the report dated 22.02.2018 lodged by the victim alleging that the applicant induced her into sexual relationship promising marriage. The allegation is that despite such promise the applicant did not marry her.

The victim is stated to be 17 years and 11 months as on the date of first information report and the sexual intercourse is allegedly committed some months prior to the lodging of the said report. The learned A.P.P. would submit that since the victim was a minor it is immaterial that the relationship was consensual. This submission is of course made *arguendo* and in the alternate.

The prosecution shall have to strictly prove the age of the victim. The age of the victim, the implication thereof on the consent, if at all the alleged relationship was consensual are matters which need to be adjudicated by the trial court after full fledged trial. At least at this stage, consensual relationship appears to be a real possibility. Whether the victim was induced by false promise which was never intended to be fulfilled is again a matter for the trial court to decide. However, I do not see any reason why the applicant should languish in the jail till the conclusion of the trial, particularly since even if the age of the victim is taken to be 17 and 11 months as on the date of the first information report she was certainty of a age of understanding.

The application is allowed.

In the event of arrest in Crime 59/2018 registered at Police Station Kalamb, District Yavatmal, the applicant shall be released on furnishing personal bond of Rs. 15,000/- with a solvent surety of like amount.

The applicant shall cooperate with the Investigating Officer.

The applicant shall not tamper with the evidence nor shall attempt to influence the witnesses in any manner.

The application is disposed of accordingly.

JUDGE